

ORIGINAL

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

MDL NO. 1456

Civil Action No. 01-
CV-12257- PBS

Judge Patti B. Saris

MOTION FOR
LEAVE TO FILE
CONSOLIDATED
COMPLAINT
UNDER SEAL

THIS DOCUMENT RELATES TO:

THE CITY OF NEW YORK v. ABBOTT LABORATORIES, INC., et al.

S.D.N.Y. Case No. 04-CV-06054

COUNTY OF ALBANY v. ABBOTT LABORATORIES, INC., et al.

N.D.N.Y. Case No. 05-CV-0425

COUNTY OF ALLEGANY v. ABBOTT LABORATORIES, INC., et al.

W.D.N.Y. Case No. 05-CV-0236

COUNTY OF BROOME v. ABBOTT LABORATORIES, INC., et al.

N.D.N.Y. Case No. 05-CV-0145

COUNTY OF CATTARAUGUS v. ABBOTT LABORATORIES, INC., et al.

W.D.N.Y. Case No. 05-CV-0256

COUNTY OF CAYUGA v. ABBOTT LABORATORIES, INC., et al.

N.D.N.Y. Case No. 05-CV-0423

COUNTY OF CHAUTAUQUA v. ABBOTT LABORATORIES, INC., et al.

W.D.N.Y. Case No. 05-CV-0214

COUNTY OF CHENANGO v. ABBOTT LABORATORIES, INC., et al.

N.D.N.Y. Case No. 05-CV-354

COUNTY OF GENESEE v. ABBOTT LABORATORIES, INC., et al.

W.D.N.Y. Case No. 05-CV-00267

COUNTY OF GREENE v. ABBOTT LABORATORIES, INC., et al.

N.D.N.Y. Case No. 05-CV-0474

COUNTY OF HERKIMER v. ABBOTT LABORATORIES, INC., et al.

N.D.N.Y. Case No. 04-CV-06054

COUNTY OF JEFFERSON v. ABBOTT LABORATORIES, INC., et al.

N.D.N.Y. Case No. 04-CV-06054

COUNTY OF MONROE v. ABBOTT LABORATORIES, INC., et al.

W.D.N.Y. Case No. 05-CV-1648

COUNTY OF ONEIDA v. ABBOTT LABORATORIES, INC., et al.

N.D.N.Y. Case No. 04-CV-06054

COUNTY OF ONONDAGA v. ABBOTT LABORATORIES, INC., et al.

N.D.N.Y. Case No. 05-CV-0088

COUNTY OF RENSSELAER v. ABBOTT LABORATORIES, INC., et al.

N.D.N.Y. Case No. 05-CV-04224

COUNTY OF ROCKLAND v. ABBOTT LABORATORIES, INC., et al.

S.D.N.Y. Case No. 03-CV-7055

COUNTY OF ST. LAWRENCE v. ABBOTT LABORATORIES, INC., et al.

N.D.N.Y. Case No. 05-CV-0479

COUNTY OF SARATOGA v. ABBOTT LABORATORIES, INC., et al.

N.D.N.Y. Case No. 05-CV-0478

COUNTY OF SUFFOLK v. ABBOTT LABORATORIES, INC., et al.

E.D.N.Y. Case No. 03-CV-229

COUNTY OF TOMPKINS v. ABBOTT LABORATORIES, INC., et al.

N.D.N.Y. Case No. 05-CV-0397

COUNTY OF WASHINGTON v. ABBOTT LABORATORIES, INC., et al.

N.D.N.Y. Case No. 05-CV-0408

COUNTY OF WAYNE v. ABBOTT LABORATORIES, INC., et al.

W.D.N.Y. Case No. 05-CV-6138

COUNTY OF WESTCHESTER v. ABBOTT LABORATORIES, INC., et al.

S.D.N.Y. Case No. 03-CV-6178

COUNTY OF YATES v. ABBOTT LABORATORIES, INC., et al.

W.D.N.Y. Case No. 05-CV-06172

**NEW YORK COUNTIES' MOTION FOR LEAVE TO FILE CONSOLIDATED
COMPLAINT AND EXHIBITS UNDER SEAL**

Plaintiffs, the City of New York and the captioned Counties, all of whom are represented by Kirby McInerney & Squire, LLP ("KMS"), respectfully file this Motion for Leave to File their Consolidated Complaint and Exhibits Under Seal. Such Consolidated Complaint will be filed on behalf of the above referenced plaintiffs, as well as other New York Counties who have retained the firm of Kirby McInerney & Squire, LLP.

Plaintiffs seek to file the Consolidated Complaint under seal, as well as the exhibits thereto. Throughout the Consolidated Complaint there are allegations based on documents marked "HIGHLY CONFIDENTIAL" and "CONFIDENTIAL" pursuant to the terms of the December 13, 2004 Protective Order. If the documents themselves are not quoted, information derived from them is, which under the terms of the Protective

Order requires that those portions be sealed. Exhibit B to the Consolidated Complaint contains proprietary pricing data taken from documents marked "CONFIDENTIAL" and "HIGHLY CONFIDENTIAL" by the defendants.

Additionally, the Consolidated Complaint and Exhibit B contain allegations and proprietary pricing data marked "CONFIDENTIAL" and "HIGHLY CONFIDENTIAL" drawn documents and information produced by subpoenaed third parties.

A proposed form of order is attached hereto.

WHEREFORE, Plaintiffs respectfully request that the Court grant them leave to file the Consolidated Complaint under seal.

Dated: June 15, 2005

Respectfully submitted,

KIRBY McINERNEY & SQUIRE, LLP

By:



Joanne M. Cicala

James P. Carroll

Aaron D. Hovan

Michael B. Coons

830 Third Avenue

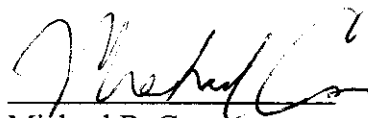
New York, NY 10022

(212) 371-6600

COUNSEL FOR THE CITY OF
NEW YORK AND THE
CAPTIONED COUNTIES

Certificate of Service

I certify that on June 15, 2005 a true and correct copy of the foregoing Motion For Leave to File Consolidated Complaint Under Seal was served on all Counsel of Record by electronic service pursuant to Case Management Order No. 2 by sending a copy to Verilaw Technologies for posting and notification to all parties.


Michael B. Coons